

By: Hefner

H.B. No. 4497

A BILL TO BE ENTITLED

AN ACT

relating to protecting freedom of conscience from government  
discrimination for businesses and other persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 5, Civil Practice and Remedies Code, is  
amended by adding Chapter 110A to read as follows:

CHAPTER 110A. FREEDOM OF CONSCIENCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 110A.001. DEFINITIONS. In this chapter:

(1) "Discriminatory action" means any action taken by  
a governmental entity to:

(A) withhold, reduce, exclude, terminate,  
materially alter the terms or conditions of, or otherwise make  
unavailable or deny any grant, contract, subcontract, cooperative  
agreement, guarantee, loan, license, certification, recognition,  
or other similar benefit, position, or status from or to a person;

(B) withhold, reduce, exclude, terminate,  
materially alter the terms or conditions of, or otherwise make  
unavailable or deny an entitlement or benefit provided under a  
state benefit program from or to a person;

(C) alter in any way the tax treatment of, cause  
any tax, penalty, or payment assessment against, or deny, delay,  
revoke, or otherwise make unavailable a tax exemption of a person;

(D) disallow, deny, or otherwise make

1 unavailable a tax deduction for any charitable contribution made to  
2 or by a person; or

3 (E) impose, levy, or assess a monetary fine, fee,  
4 penalty, or injunction against a person.

5 (2) "Governmental entity" means:

6 (A) this state;

7 (B) a board, bureau, commission, council,  
8 department, or other agency of this state;

9 (C) the Texas Supreme Court, the Texas Court of  
10 Criminal Appeals, a state judicial agency, the State Bar of Texas,  
11 or a court in this state;

12 (D) a political subdivision of this state,  
13 including a county, municipality, or special district or authority;

14 (E) an officer, employee, or agent of an entity  
15 described by Paragraphs (A)-(D); or

16 (F) a private person suing under or attempting to  
17 enforce a law, rule, order, or ordinance adopted by an entity  
18 described by Paragraphs (A)-(D).

19 (3) "Person" has the meaning assigned by Section  
20 [311.005](#), Government Code.

21 Sec. 110A.002. SINCERELY HELD RELIGIOUS BELIEF OR MORAL  
22 CONVICTION. The sincerely held religious belief or moral  
23 conviction protected by this chapter is the belief or conviction  
24 that marriage is or should be recognized as the union of one man and  
25 one woman.

26 Sec. 110A.003. CONSTRUCTION OF CHAPTER. (a) This chapter  
27 shall be construed in favor of a broad protection of the free

1 exercise of religious belief and moral conviction to the maximum  
2 extent allowed by this chapter and the state and federal  
3 constitutions.

4 (b) The protections of free exercise of religious belief and  
5 moral conviction afforded by this chapter are in addition to the  
6 protections provided under federal or state law and the state and  
7 federal constitutions.

8 (c) This chapter may not be construed to preempt or repeal a  
9 state or local law that is equally or more protective of the free  
10 exercise of religious belief or moral conviction or to narrow the  
11 meaning or application of a state or local law protecting the free  
12 exercise of religious belief or moral conviction.

13 (d) This chapter may not be construed to prevent a  
14 governmental entity from providing, either directly or through a  
15 person who is not seeking protection under this chapter, any  
16 benefit or service authorized under state law.

17 (e) This chapter applies to and in case of conflict  
18 supersedes each statute of this state that impinges on the free  
19 exercise of religious belief or moral conviction protected by this  
20 chapter. This chapter also applies to and in case of conflict  
21 supersedes an ordinance, rule, regulation, order, opinion,  
22 decision, practice, or other exercise of a governmental entity's  
23 authority that impinges on the free exercise of religious belief or  
24 moral conviction protected by this chapter.

25 Sec. 110A.004. APPLICABILITY. This chapter is excluded  
26 from the application of Chapter [110](#).

SUBCHAPTER B. CERTAIN DISCRIMINATORY ACTION BY GOVERNMENTAL ENTITY

PROHIBITED

Sec. 110A.051. MARRIAGE-RELATED GOODS AND SERVICES. A governmental entity may not take any discriminatory action against a person wholly or partly because the person, based on or in a manner consistent with a sincerely held religious belief or moral conviction protected by this chapter, has provided or declined to provide the following for a purpose related to the solemnization, formation, celebration, or recognition of a marriage:

(1) photography, poetry, videography, disc jockey services, wedding planning, printing, publishing, or similar marriage-related goods or services; or

(2) floral arrangements, dressmaking, cake or pastry artistry, assembly hall or other wedding venue rentals, or similar marriage-related services, accommodations, facilities, goods, or privileges.

SUBCHAPTER C. PROCEDURES

Sec. 110A.101. SOVEREIGN IMMUNITY WAIVED. Sovereign immunity to suit and from liability is waived and abolished to the extent of liability created by Section 110A.103. A person may sue a governmental entity for damages allowed by that section.

Sec. 110A.102. CLAIM OR DEFENSE BASED ON DISCRIMINATORY ACTION. (a) A person may assert a violation of Subchapter B as a claim against a governmental entity in a judicial or administrative proceeding or as a defense in a judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the governmental entity, a private person, or

1 another party.

2 (b) An action under this chapter may be commenced, and  
3 relief may be granted, in a court of this state without regard to  
4 whether the person commencing the action has sought or exhausted  
5 available administrative remedies.

6 Sec. 110A.103. INJUNCTIVE RELIEF; DAMAGES. (a) An  
7 aggrieved person must first seek injunctive relief to prevent or  
8 remedy a violation of this chapter or the effects of a violation of  
9 this chapter.

10 (b) Subject to Subsections (c) and (d), if a court has  
11 granted injunctive relief and the injunction is violated, only then  
12 may the aggrieved person seek:

13 (1) compensatory damages for pecuniary and  
14 nonpecuniary losses;

15 (2) reasonable attorney's fees and court costs; and

16 (3) any other appropriate relief.

17 (c) Only declaratory relief and injunctive relief are  
18 available against a private person not acting under the authority  
19 of a governmental entity on a successful assertion of a claim or  
20 defense under this chapter.

21 (d) Liability of a governmental entity for compensatory  
22 damages under Subsection (b)(1) may not exceed \$500,000 for all  
23 claims arising out of a single occurrence. A person is not entitled  
24 to recover exemplary damages or prejudgment interest under this  
25 chapter.

26 Sec. 110A.104. TWO-YEAR LIMITATIONS PERIOD. A person must  
27 bring an action to assert a claim under this chapter not later than

1 two years after the date the person knew or should have known that a  
2 discriminatory action was taken against that person.

3       SECTION 2. The change in law made by this Act applies only  
4 to a cause of action that accrues on or after the effective date of  
5 this Act. A cause of action that accrues before the effective date  
6 of this Act is governed by the law applicable to the cause of action  
7 immediately before that date, and that law is continued in effect  
8 for that purpose.

9       SECTION 3. This Act takes effect September 1, 2019.